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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Christopher D. Ludwig

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EXAMINER

DUNHAM, JASON B

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3625

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/927,920	Applicant(s) LUDWIG ET AL.	
	Examiner Jason B. Dunham	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-15,52,54-60,68-78 and 81-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-15,52,54-60,68-78 and 81-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 12, 2007 has been entered. Applicant amended claims 1,5,6,8,11-15,52,68-71,73-75,78, and 81-83 and canceled claims 2-3 and 53 in response to the office action dated October 11, 2006. Claims 1,4-15,52,54-60,68-78 and 81-83 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4,7-15,52,54-56,58-60,68-78, and 81-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgenson (U.S. Patent Application Publication No. 2002/0095232) in view of Kallestad (U.S. Patent Application Publication No. 2006/0108434).

Referring to claim 1. The combination of Jorgenson and Kallestad discloses a method comprising:

- Receiving product movement information for a plurality of shipments of products, wherein the product movement information includes a source location, a destination location, and a transportation device for each of the shipments, and further wherein the products include at least two grown commodities from different fields (Jorgenson: paragraphs 35 and 44-45);
- Determining a plurality of lots based on the product movement information by assigning a new lot identifier each time the grown commodities from two or more of the different fields are commingled by storing or moving the grown commodities together as a single lot (Kallestad: paragraph 27); and
- Generating, based on the product movement information and the assigned lot identifiers, a report identifying the plurality of lots in which the grown commodities from different fields have been commingled (Kallestad: paragraph 28).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Jorgenson to have included assigning a new lot identifier each time the grown commodities from two or more of the different fields are commingled and generating, based on the product movement information, a report identifying commingled products, as taught by Kallestad, in order to aid crop marketing through impartial management (Kallestad: abstract).

Referring to claim 4. The combination of Jorgenson and Kallestad further discloses a method wherein the product movement information includes a designation of a farm, a field, and time harvested (Jorgenson: paragraph 44).

Referring to claim 7. The combination of Jorgenson and Kallestad further discloses a method comprising:

- Presenting a contract interface to define contracts between producers and customers based on order established by the customers (Jorgenson: figure 4).
- Providing a contract module to monitor contract generation and prevent a contract from being generated that is in excess of the order (Jorgenson: paragraphs 48 & 75, figures 4 & 10).

Referring to claim 8. The combination of Jorgenson and Kallestad further discloses a method comprising presenting an interface to define programs for tracking a given one of the determined lots (Jorgenson: paragraph 7 & figure 4).

Referring to claim 9. The combination of Jorgenson and Kallestad further discloses a method comprising presenting an interface for receiving program information to establish checklists for procedures for moving and storing the given lot (Jorgenson: paragraph 45).

Referring to claim 10. The combination of Jorgenson and Kallestad further discloses a method comprising:

- Presenting an interface for receiving program information for establishing parameters for certifying actions taken in moving and storing the given lot (Jorgenson: paragraphs 41 & 61); and
- And receiving an indication that the actions have been certified (Jorgenson: paragraphs 41 & 61).

Referring to claim 11. The combination of Jorgenson and Kallestad further discloses a method wherein each of the lot identifiers comprises an indication of the character of the product (Jorgenson: paragraphs 42 & 84).

Referring to claim 12. The combination of Jorgenson and Kallestad further discloses a method wherein the indication of the character of the product includes the seed variety used to grow each of the grown commodities (Jorgenson: paragraph 31 & figure 19).

Referring to claim 13. The combination of Jorgenson and Kallestad further discloses a method wherein the indication of the character of the product includes an indication of whether any of the grown commodities is bio-engineered (Jorgenson: paragraphs 35 & 47).

Referring to claim 14. The combination of Jorgenson and Kallestad further discloses a method wherein the indication of the character of the product includes an indication of whether any of the grown commodities is conventionally grown (Jorgenson: paragraphs 35).

Referring to claim 15. The combination of Jorgenson and Kallestad further discloses a method wherein the indication of the character of the product includes an indication of whether any of the grown commodities is organically grown (Jorgenson: paragraphs 35 & 47).

Referring to claim 52. Claim 52 is rejected under the same rationale set forth above. The combination of Jorgenson and Kallestad further discloses a medium wherein the timing information includes a time stamp identifying when the lot is moved

and a medium that presents a tracing interface wherein a given lot can be identified and its history traced by identifying any other lots that have been commingled with the given lot (Kallestad: paragraphs 16,26, and 39). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the medium of Jorgenson to have included timing and tracing information, as taught by Kallestad, in order to generate a policy for managing a particular crop (Kallestad: abstract and paragraph 39).

Referring to claim 54. The combination of Jorgenson and Kallestad further discloses a computer readable medium wherein the timing information includes a time the lot moves in and a time the lot moves out (Jorgenson: figures 3-6).

Referring to claim 55. The combination of Jorgenson and Kallestad further discloses a computer readable medium wherein the storage information includes an indication of whether the storage facility is clean and empty (Jorgenson: paragraph 47).

Referring to claim 56. The combination of Jorgenson and Kallestad further discloses a computer readable medium wherein the movement information includes an indication of whether the transportation device is clean and empty (Jorgenson: paragraph 47).

Referring to claims 58-60. Claims 58-60 are rejected under the same rationale set forth above.

Referring to claims 68-74. Claims 68-74 are rejected under the same rationale set forth above. The combination of Jorgenson and Kallestad discloses a system

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operating a web server (Jorgenson: paragraph 6) and electronically delivering certification documents (Jorgenson: paragraph 86).

Referring to claim 75. The combination of Jorgenson and Kallestad further discloses a system comprising an audit, certification, and testing module configured to allow transporters of the lot to identify for each of the lots a specific transportation device, a time the lot enters the transportation device, a time the lot leaves the transportation device, and a clean and empty status of the transportation device (Jorgenson: paragraphs 41,47, 67 & figure 9).

Referring to claim 76. The combination of Jorgenson and Kallestad further discloses a system that is in communication with a business entity and receives movement information from the business entity (Jorgenson: paragraph 45).

Referring to claims 77-78 and 81-82. Claims 77-78 and 81-82 are rejected under the same rationale set forth above.

Claims 5-6,57, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Jorgenson and Kallestad in view of Shortridge (U.S. Patent Application Publication No. 2001/0011437).

Referring to claims 5-6,57, and 83. The combination of Jorgenson and Kallestad discloses all of the above, but does not expressly disclose a method or computer-readable medium wherein a recall order is issued for one or all of the lots determined to have been commingled with a contaminated lot. Shortridge discloses a method and computer-readable medium for determining all lots that have been contaminated and tracing a lot's history thereby identifying any other lots that have been commingled with

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the given lot based on a report (Shortridge: paragraphs 29,43 and claim 1). The examiner notes that Shortridge discloses testing for contamination of lots that would inherently be recalled if they were found to be contaminated. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method and medium of Jorgenson/Kallestad to have included means for determining all lots that have been contaminated and tracing a lot's history thereby identifying any other lots that have been commingled with the given lot, as taught by Shortridge, in order to preserve the identity of non-genetically modified seeds (Shortridge: abstract).

Response to Arguments

Applicant's arguments with respect to the above claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the combination of Jorgenson and Kallestad does not disclose whether a storage facility or transportation device is clean and empty. The examiner disagrees. Paragraph 47 of Jorgenson discloses the type and amount of crop stored in a grain elevator as well as if certain quality traits are being preserved. An indication that a storage facility is empty would clearly be an amount of crop stored and a clean storage facility would clearly be required to maintain traits of a crop.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JBD
Patent Examiner
5/22/07


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